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Criminal Tribunal for Rwanda

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INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

Agwu Ukiwe OKALI, Registrar of the International Criminal Tribunal for Rwanda outlines the mandate of the Tribunal as well as the political, judicial and administrative problems it has encountered since its establishment in 1994. The Tribunal has overcome most of those difficulties and is currently considering three cases. Mr. Okali asserts that the court is doing everything possible to speed up its work to bring to justice all those responsible for the genocide committed against the Rwandan people.

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ANNOUNCER: From United Nations Headquarters in New York, this is **World Chronicle**, an unedited interview programme about major global issues. Here now to introduce our guest is the host of today's **World Chronicle**.

LITTLEJOHNS: I'm Michael Littlejohns, and this is **World Chronicle**.

A few years ago, the United Nations Security Council established the International Criminal Tribunal for Rwanda. Its role is to prosecute those who were responsible for genocide and other serious violations of international humanitarian law committed against the Rwandan people. Seated in Arusha, in northern Tanzania, the court has recently published its second annual report. What has the court achieved so far? And how many cases has it tried?

Our guest today is directly involved in the work of the court. He is Agwu Ukiwe Okali, Registrar of the International Criminal Tribunal for Rwanda.

Joining me to talk with Mr. Okali are Rob Watson of the *BBC* and Evelyn Leopold of *Reuters*.

LITTLEJOHNS: Mr. Okali, welcome to **World Chronicle**.

OKALI: Thank you.

LITTLEJOHNS: Mr. Registrar, there as been a lot of talk lately about establishing a permanent International Court for trying war crimes. Unfortunately the experience in Rwanda and in the case of Bosnia, are not very good auguries for the establishment for such a body. What happened in the case of the court in Rwanda to have created such a mess that you had to go in and clean up in March of '97?

OKALI: Well I think Michael, that the problem were manifold. There was a basic problem of, I would say, lack of adequate planning or time to plan. As you know things like genocide, civil wars they don't give notice, they happen. And once they happen the international community has to respond. And in this case, this is exactly what happened and I feel that the -- any judgement should take into account the fact that this was a response to a very urgent situation, which required redressing, and it was also something which the UN really did not have very much prior experience. This is clear from the reports that were issued on the Tribunal, showed that part of the problem was the staff, were not experienced in this kind of operation, There were also other problems of what I would call more strategic type. Part of that would be the location of the Tribunal...

LITTLEJOHNS: In Arusha?

OKALI: In Arusha...

LITTLEJOHNS: Why was Arusha chosen? It seems as a rather unlikely spot. With all due respect to Tanzania.

OKALI: Arusha is quite a pleasant little town, but in fact, it was chosen there as a compromise -- compromise location.

LITTLEJOHNS: You mean a political compromise.

OKALI: Political compromise. The government of Rwanda, which had requested the Tribunal, as you know, wanted it in Kigali. Other countries didn't go along with that idea. Didn't like that...

LITTLEJOHNS: Why didn't they like the idea?

WATSON: Sorry Michael..

LITTLEJOHNS: Why didn't they like the idea? Didn't they feel the court could operate fairly in Kigali?

OKALI: I think that part of the problem must be taking into account the very, very charged situation there. You realize that if the court is cited in Kigali, now these suspects, would have to be brought to the cite, the court.

WATSON: Before we go any further, there are number of questions I would love to ask you about all of this. What on earth does the Registrar do? Maybe a lot of people that watch this would like to know.

OKALI: It's a very good question. Because I discovered that people are not very conversant, let's put it that way. The Registrar is like the manager, the chief executive of the Tribunal.

WATSON: To make sure the judges got the right wigs and stuff.

OKALI: Yes, we do that too, we make sure that the....

LITTLEJOHNS: You don't have the British system of these full bottom wigs surely do you?

OKALI: No, but we do have some, some British trained, British – what I call people from British tradition who also, like Canadians and sometimes they wear these wigs. The Registrar in other words, has basically two main responsibilities. One is providing the support for the judicial operations, the courts, managing the courts and also support to the Office of the Prosecutor.

WATSON: So you're the man who makes the legal people be able to get on with their work.

OKALI: We provide them with what they need.

LEOPOLD: How can you speed this up now? Because I think nobody has been convicted yet and at this rate...

LITTLEJOHNS: Has anybody been tried yet?

LEOPOLD: Yes.

LITTLEJOHNS: They have?

LEOPOLD: Charles.... But at this rate, it would take more than twenty years to try the thirty five people who you have under indictment.

OKALI: This is correct. But before I go... let me also say that the other responsibility of the Registrar is the administration. The Tribunal is – in addition to being a court, it's also a UN body just like a UN Office. The Registrar is responsible for administrating the staff which numbers close to six hundred people now. As far as how to speed up the work of the Tribunal, let me say that from our part, we are doing everything to speed it up. And what I mean by this, we're providing the facilities that are needed, including having added a courtroom, so that the two chambers, the two panel of judges, can work concurrently which they didn't do before they were consecutively.

WATSON: Try and put it in some kind of context though. The way legal systems normally works... say some guy breaks into a bank in New York City, the police try and ask a few questions, do a bit of forensics, then track him down and arrest him, take him to court. Why is it, why is it in a way that ordinary people can understand, why is this such a particularly difficult case? Is it because it is difficult to actually find the suspects, because the evidence is difficult to come by, what exactly is the problem?

OKALI: It's all of those things. As I always say, it's not like these suspects were all just sitting in Arusha waiting for us. We had to go look for them all over the world, as a matter of fact. And when we found them, it didn't necessarily mean that we could just go in and take them. We had to – governments had to – cooperate, which is not something that you always get as readily. So it's has been, that has been one factor. The other is what I was talking about – just setting up the facilities to do these things, to have the trials. And then we have a totally unique dimension, which is the defense council. Normally in a national jurisdiction, you have the bar – the people are there, but this had to be created.

LITTLEJOHNS: Who provides the defense council?

OKALI: The defense council is in practically in all the cases we now have – they have been provided by the Tribunal. Because the people, the accused, have pleaded indigence. So we have under our rules we have provide them with a defense council. What we do is that we maintain a list of well over three hundred defense council, from all over the world, people who have written to us or somehow, or whom we have identified and who are lawyers who are in good standing in their national jurisprudence.

LEOPOLD: You have had some horrific stories at trials, and yet, at the same time the defense council, as well as the prosecution is claiming it's very, very hard to get witnesses. Some of them were in refugee camps in Eastern Congo, particularly for the defense, and some of the prosecution witnesses feel intimidated. Do you see that you are able to prosecute these cases adequately? Or that the defense council is able to defend them?

OKALI: I think that there have been more problems with defense witnesses than prosecution witnesses. We have to admit that, it is not an admission, but it is a fact. The main reason is that the prosecution witnesses all tend to be coming essentially from within Rwanda. The people who -- sort of the survivors -- as we call them, and all the victims. They are there, so it's much easier to get them and of course they have a strong interest to...

LITTLEJOHNS: So where do the defense witnesses come from?

OKALI: Defense witnesses tend to be people who have left the country in the wake of the take over by the present Rwandan government. They left in mass, and went to various refugee centers. The ones who went to the then Eastern Zaire, particularly troublesome case because as you know, the situation that evolved there, left everything really in shambles and they moved from wherever...

WATSON: But again to go back to the broad picture, a lot of people watching this will say, well, you don't need to be a kind of Colombo or Sherlock Holmes to figure out if some -- if over a half a million people suddenly got killed, and presumed to believe there was some kind of plot to do this, it must be possible to grab hold of some evidence and say right, these guys did that. Do you have -- do you actually have some kind of theory -- well we know yes, this is approximately how many people died and we think that it is probably about these forty people who are behind it. Do you have that overall theory aside from the various problems that you have with the prosecution?

OKALI: Yes, yes, as a matter of fact, the prosecution recently announced a new strategy which is exactly based on this idea of a conspiracy. And I think this, I think that this has become more feasible as the more senior members of the former government have been arrested. Now you have people to whom you could ascribe responsibility in that sense, other than just people who actually participated. But going back to the problem that you mentioned of perception as against reality. Because yes, it's true, you know, people -- it's very easy to imagine genocide -- it's so clear. But we are talking now of criminal trial, in which -- don't forget, you're not just saying, somebody was killed. So you had to say that this person whom you've put in the dark, has something to do with that and prove it, in evidentiary way.

WATSON: This is partly because these people didn't leave a...

LITTLEJOHNS: Let me stop the clock a minute. This is **World Chronicle**. Our guest is Agwu Ukiwe Okali, Registrar of the International Criminal Tribunal for Rwanda. Go ahead.

WATSON: I was just about to say that -- One. I don't think any one of us here are quite old enough to remember it. But one knows about the Nuremburg trials after the Second World War, where many Nazis war criminals were convicted and then executed. But

they clearly left a rather large paper trail, I mean it's part of the problem that the people behind this genocide didn't leave a paper trail. Where the Nazis were rather meticulous about saying we moved this number of people to this concentration camp.

OKALI: I think that that is certainly part of it because we have to – the investigators have to go back to Rwanda trying to find evidence, this kind of evidence. You're right, the first of all, it wasn't a machinery of very developed country, to begin with. So this idea that you just mentioned, for example – Nazi Germany, that was operating a very clearly documented, it's not the same. Here, evidence has to be pieced together. There is some documentary evidence which has been presented, and is being presented. There are radio broadcasts, material like those, but it's quite a task to infer from that, build a case.

LEOPOLD: One purpose was to tell the victims that the killers would not go unpunished, or at least some of them. And to serve as a warning, that in the future, people who commit genocide – individuals, not just an entire country or an entire government – would be held responsible. Is this working? Do you think there is any reaction among people that this Tribunal is serving the function – the philosophical and moral function – that it should? Among the people in Rwanda? Both ethnic groups, or both – yes, both ethnic groups.

OKALI: I think that that is beginning to happen. The problems that the Tribunal had in the earlier part of its life, certainly, contributed to a sense that it was not achieving this end. But now, the report that we get is that people are now beginning to see that the Tribunal is real. Because what we have done among other things, is that we are now broadcasting the trials. We have provided facilities for Radio Rwanda, because Rwanda as of now – there is, basically radio is the main means of communication. And we bring journalist, we have brought journalist from Rwanda – yes – and they have been broadcasting and the feedback we get is that people are now really getting to feel the Tribunal is real. So...

LEOPOLD: But within Rwanda, your people are still riding shot gun. No? you're still being shot at, your still being yelled at...

OKALI: Well...

LITTLEJOHNS: You mean the investigators?

LEOPOLD: Yes, the investigators.

OKALI: Investigators yes, but everybody is being shot at too. But that is something a bit different. No, no, no. I think that now, in fact our relations with the government and the people have improved tremendously. Particularly, since the operation that we call "Mackie", which netted some of the top former government officials. That, more than anything else, showed that we were real.

WATSON: Let me put this in a really brutal way. Let's say that I'm a, let's say I'm a Tutsi man in the village and most of my family has been butchered by Hutu extremists, and then I find out that I know where these guys are – someone has tipped me off – they've just come back from Zaire, now Democratic Republic of Congo. Why should I tell the court about it? Rather than go and sort it out myself? It's a serious question. I'm sure that's what people ask themselves. They say, my wife died, my cousin, my kids. Why the hell should I wait for someone to sort this out, whether it's the UN or I'm going to sort this out myself. Why shouldn't I?

OKALI: I think that this is a real problem. It was a – I think a – bigger problem maybe a year ago or so. But it is a problem strictly speaking for the Rwandan government because it's another matter. In fact, one has – we know of cases – of course, where people have been arrested for doing exactly what you are suggesting. But I think that this underscores the importance of making the work of the Tribunal known. Now, more people know that something is being done, at least there will be less of that feeling to go and do something themselves.

WATSON: What about the Rwandan government. They must presumably have a slightly awkward relationship with your Tribunal. They must be of two minds about whether it's best to prosecute things themselves or to do things via the UN.

OKALI: I think that we have a good relationship with them, both in terms of our work and also in terms of cooperation. There have been times when they felt that this...

LEOPOLD: About a year ago, why did they change?

OKALI: They changed because they have seen the improvements. They have seen and have even wrote to us.. they have seen that we are, the Tribunal is now doing what it is suppose to be doing. In terms of who, who prosecutes whom, I think that one of the factors that have to be taken into account, because this is reality, is the fact that those countries which are aware – hosting – these suspects, are suddenly more likely to hand them over to the UN. So the Rwandan government recognizes that. It's either, you know, the UN or maybe they don't get the people.

WATSON: That was going to be precisely the next area that I was interested in. Seeing that as we are all grown adults here and we're not frightened about upsetting people, being too diplomatic. These guys behind this massacre, they have some powerful friends in countries like Paris, I'm not saying, no one is saying of course, that the French government supported any of this but, they were – the government was a client of the government of the French government. Are France and other countries protecting suspects and indictees?

OKALI: As far as my own experience is concerned, which is since I took over, I don't find any evidence of that. I think that even if there were, it's not feasible for any government now to...

WATSON: Where are the suspects hiding then?

OKALI: All over, all over, all over, all over.

LITTLEJOHNS: All over Africa or all over the world?

OKALI: They are mostly in Africa now. They are mostly in Africa now. At least this is the information we have. They are mostly in Africa.

LEOPOLD: Michael began the program by talking about this type of a Tribunal becoming permanent for an International Criminal Court. Do you think in light of the experience – because you had to clean up a big mess when you got to Tanzania -- that the United Nations, at least the Legal Affairs part of the United Nations, is it all capable of setting something like this up, on a permanent basis, are there lesson that have been learned that you don't think are going to be repeated? Because everybody is watching Rwanda, which is in some ways gotten further than the Yugoslav Tribunal because African governments have cooperated more to see whether this could in any way be a basis. But administratively it seem to have been disaster. And it was set up by this building in which we are sitting.

OKALI: This is a big trap she has set for me. In fact, I would say that we are now in a very good position to organize such a Tribunal, because we know a court. We now know what should be done and we have learned from the experience. And...

LITTLEJOHNS: So you could in fact, be a model for a permanent International Tribunal.

OKALI: I think we can, I think we can. Because we have been through all the problems that could possibly face such... and we have...

LEOPOLD: Despite Arusha...

OKALI: We've now surmounted these problems and are pushing ahead. One - for example, there is one area – maybe two, that only experience really can teach you that. One such area is witness protection. The witness protection program – when we started nobody had ever known what that meant, I mean...

LITTLEJOHNS: Do you give people new identities and they disappear?

OKALI: We have relocated a few people, yes. But it is a very complex operation even in the best of times and we've had visits by very senior U.S. Marshals from New York and Boston, an example of two key areas, where witness protection has been very, very developed. I'm happy to say that they were, they were quite impressed with what we have managed to do with given our...

WATSON: If I could just – I just had this horrible vision though, that you have an international civil servants not paid that much, and then guys who commit a terrible war crimes defended by famous American lawyers, I don't think I want to mention any names right now. But they paid lots of money saying "oh well he didn't mean to kill all these thousands of people – that was someone else".

LITTLEJOHNS: Mr. Okali, we've only got a little time left. We've didn't get too much into the details of the court. How many judges are there?

OKALI: We have six judges in three panels. The main panels of three.

LITTLEJOHNS: So the chambers....

OKALI: So that two chambers....

LITTLEJOHNS: Two chambers...

OKALI: Two chambers...

LITTLEJOHNS: So six panels two chambers..

OKALI: No. Six judges three to each chamber of panel in a ...

LITTLEJOHNS: And how many, how many cases are being tried so far?

OKALI: There are three cases that are currently being tried. These involve two individuals on trial in two separate cases, and two individuals in one joint case.

LITTLEJOHNS: And what happens, if and when one or more of these people are convicted? What kind of punishment will be meted out?

OKALI: The maximum punishment is life in prisonment.

LITTLEJOHNS: And where, where would they be imprisoned?

OKALI: It will depend on the situation at the time. Because our rules say it is to be served in Rwanda unless, some other government has volunteered to enforce the judgement.

LITTLEJOHNS: Mr. Okali, that's all the time we have. Thank you for being with us on this edition of **World Chronicle.** Our guest has been Agwu Ukiwe Okali, Registrar of the International Criminal Tribunal for Rwanda. He was interviewed by Rob Watson of the *BBC*, and Evelyn Leopold of *Reuters*.

I'm Michael Littlejohns, thank you for joining us. We invite you to be with us for the next edition of **World Chronicle**.